

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

S.J.W and S.W.W.	)	
By and Through Their Parents, Brian Wilson)	)	
and Linda Wilson	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 12-00285-CV-W-HFS
	)	
LEE'S SUMMIT R-7 SCHOOL DISTRICT,)	)	
et al.	)	
Defendants.	)	

**SECOND MEMORANDUM TO COUNSEL**

Without suggesting a solution to the immediate issue of plaintiffs' return to school, it may be useful to reemphasize my interest in the equities pertaining to a return to school in the middle of the suspension period, after significant penal action has already occurred. I am interested in any showing about the attitude of the alleged victims of the messages - - apparently several women or girls and the African American students at the high school. It would clearly be helpful to a return, either by School Board action or as a factor in judicial intervention, if there were positive indications that the victims would welcome or acquiesce in plaintiffs' return after a significant suspension, given their understanding that the offensive racial messages (at least) were not composed or knowingly publicized by plaintiffs.

I recognize that using a "heckler's veto" is probably against public policy but am unaware of whether something like a "victim's veto" may be an appropriate issue. At sentencing for criminal conduct, for example, the attitude of victims, if reported, is sometimes taken into account.

If this is an issue worth pursuing, I would suppose that affidavits, signed petitions and the like, could be considered as a factor by me and/or the School Board, without requiring witness testimony.

/s/ Howard F. Sachs  
HOWARD F. SACHS  
UNITED STATES DISTRICT JUDGE

March 14, 2012

Kansas City, Missouri